IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16148 of 2004

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Between:

Chalis Makan Weaker Sections Welfare Society, rep. by its President Ghulam Jilani, S/o. Ifteqar Hussaini, R/o. H.No.8-3-215, Near Chalis Makan, Hyderabad.

..... PETITIONER

AND

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1 The District Collector, Hyderabad District, having Office at Nampally, Hyderabad.
2 The Mandal Revenue Officer, Khairtabad, Having Office at Khairtabad, Hyderabad.
3 The Secretary for Medical and Health Dept., having Office at Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Pass an order, direction or a writ particularly in the nature of Writ of Mandamus declaring that the impugned notice issued by the M.R.O. vide notice No.C/12066/96, dated 20.8.2004 is contrary to law, in violation of principles of natural justice, arbitrary and hence liable to be set aside. Consequently this Hon'ble Court may be pleased to suspend the operation of the impugned notice of M.R.O. vide notice No.C/12066/96, dt. 20.8.2004 alternatively the eviction proceedings pursuant to the impugned notice may be stayed till the disposal of representation of the petitioner society dt. 7th April 2002 and 22nd August 2004.

Counsel for the Petitioner: MR.MOHD.MOIN AHMED QUADRI

Counsel for the Respondent Nos.1&2 : GP FOR REVENUE

Counsel for the Respondent No.3: No appearance

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Revenue. Both have no objection for disposal of the writ petition at the admission stage.

The petitioner-society filed this writ petition questioning the notice issued by the Mandal Revenue Officer dated 20-8-2004 directing the persons, who are in occupation of the Government property, to vacate and deliver the vacant possession within a period of seven days. As the persons, who are in occupation, have not

chosen to file an application challenging the same, the petitioner-society to safeguard the interest of the members, filed the present writ petition.

Though this court in Writ Appeal No.567 of 2001 dated 7-4-2001 held that an association cannot maintain such a writ petition in the absence of persons, who are likely to be affected, but in view of paragraph-11 of the affidavit wherein the deponent has given undertaking that all the members will vacate and hand over the possession in the event of the representation is not disposed of within a period of seven months, the same is being taken up, as the said undertaking will not bind and there is every possibility that the members will come forward that the said undertaking given by the deponent is not binding on them.

Be that as it may, all the persons who are in occupation of the premises, namely, Mr.Ramanand and 32 others found to be the encroachers over the Government barracks in S.No.67 of Yousufguda village, Khairatabad Mandal. They have filed writ petition in this court being W.P.No.30532 of 1997 and the same was dismissed on 30-7-1999 at the admission stage granting two months time to the petitioners to voluntarily vacate and surrender the possession to the Medical and Health Department. By elaborate order after taking note of the earlier order passed in Writ Appeal No.57 of 1995 dated 17-7-1995 this court dismissed the same while rejecting the representation made by the occupant in the said writ petition. Against the same, the petitioner carried the matter in appeal in W.A.No.1388 of 1999 and obtained status quo. Ultimately the said writ appeal was also dismissed on 21-1-2002. Even after the dismissal of the said writ appeal the petitioner failed to vacate the premises, which is in its occupation, as directed by this court in W.P.No.30532 of 1997. In view of the same, the issuance of notice dated 20-8-2004 calling upon members of the petitioner association to vacate and hand over the possession does not suffer from any infirmity in implementation of the order passed by this court.

The Writ Petition is accordingly dismissed at the admission stage. It is for the petitioners to approach the revenue authorities seeking extension of time. If the petitioners approach the revenue officials seeking extension of time by giving an undertaking, it is for the revenue authorities to consider the same and pass appropriate orders.

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A. Gopal Reddy, J.

10th September, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The District Collector, Hyderabad District, having Office at Nampally, Hyderabad.
2 The Mandal Revenue Officer, Khairtabad, Having Office at Khairtabad, Hyderabad.
3 The Secretary for Medical and Health Dept., having Office at Secretariat, Hyderabad.

4 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

5 2 CD copies.